



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

**[EPA-HQ-OAR-2007-0011; FRL-9904-06-OAR]**

**RIN 2060-AS03**

**Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to amend the Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007. This direct final rule amends the definition of "delayed coking unit" by removing process piping and associated equipment (pumps, valves, and connectors) from the definition. This final rule also removes a redundant definition of "delayed coking unit" from the rule text.

**DATES:** This rule is effective on [INSERT DATE 90 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless the EPA receives adverse comment by [INSERT DATE 45 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that some or all of the amendments in the final rule will not take effect.

**ADDRESSES:** Comments. Submit your comments, identified by Docket ID Number EPA-HQ-OAR-2007-0011, by one of the following methods:

- http://www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov. Attention Docket ID Number EPA-HQ-OAR-2007-0011.
- Fax: (202) 566-9744. Attention Docket ID Number EPA-HQ-OAR-2007-0011.
- Mail: U.S. Postal Service, send comments to: EPA Docket Center, EPA West (Air Docket), Attention Docket ID Number EPA-HQ-OAR-2007-0011, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include a total of two copies.
- Hand Delivery: U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Ave., NW, Washington, DC 20004. Attention Docket ID Number EPA-HQ-OAR-2007-0011. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID Number EPA-HQ-OAR-2007-0011. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes

information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: **Error!**  
**Hyperlink reference not valid.**<http://www.epa.gov/dockets>.

We request that you also send a separate copy of each comment to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Ms. Brenda Shine, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and

Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-3608; fax number: (919) 541-0246; and email address: shine.brenda@epa.gov. For information about the applicability of the New Source Performance Standards (NSPS) to a particular entity, contact Maria Malave, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, telephone number: (202) 564-7027; fax number: (202) 564-0050; and email address: malave.maria@epa.gov.

**SUPPLEMENTARY INFORMATION:**

Organization of This Document. The information in this preamble is organized as follows:

- I. Why is the EPA using a direct final rule?
- II. Does this direct final rule apply to me?
- III. What should I consider as I prepare my comments for the EPA?
- IV. What are the amendments made by this direct final rule?
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act

**I. Why is the EPA using a direct final rule?**

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, we are publishing a separate document that will serve as the proposed rule to the Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction or Modification Commenced After May 14, 2007 (40 CFR part 60 subpart Ja), if adverse comments are received on this direct final rule. If EPA receives adverse comment on all or a distinct portion of this rule, we will publish a timely withdrawal in the Federal Register informing the public that some of this rule or this entire direct final rule will not take effect. The rule provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision, unless we determine that it would not be appropriate to promulgate those provisions due to their being affected by the provision for which we receive adverse comments. We would address all public comments in any subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

## **II. Does this direct final rule apply to me?**

Categories and entities potentially regulated by this final rule include:

Category	NAICS Code <sup>1</sup>	Examples of Regulated Entities
Industry.....	32411	Petroleum refiners.
Federal government...		Not affected.
State/local/tribal government.....		Not affected.

<sup>1</sup> North American Industry Classification System

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this direct final rule. To determine whether your facility would be regulated by this direct final rule, you should examine the applicability criteria in 40 CFR 60.100a. If you have any questions regarding the applicability of this direct final rule to a particular entity, contact the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

### **III. What should I consider as I prepare my comments for the EPA?**

Submitting CBI. Do not submit information containing CBI to the EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD-ROM or disk that

does not contain CBI, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, and Attention Docket ID Number EPA-HQ-OAR-2007-0011.

#### **IV. What are the amendments made by this direct final rule?**

Presently, "delayed coking unit" is defined as follows:

Delayed coking unit means a refinery process unit in which high molecular weight petroleum derivatives are thermally cracked and petroleum coke is produced in a series of closed, batch system reactors. A delayed coking unit includes, but is not limited to, all of the coke drums associated with a single fractionator; the fractionator, including the bottoms receiver and the overhead condenser; the coke drum cutting water and quench system, including the jet pump and coker quench water tank; process piping and associated equipment such as pumps, valves and connectors; and the coke drum blowdown recovery compressor system.

40 CFR 60.101a. This direct final rule amends the definition of "delayed coking unit" by removing the phrase "process piping and associated equipment such as pumps, valves and connectors." Emissions from process piping and associated equipment (pumps, valves and connectors) are already covered under 40 CFR part 60, subparts GGG or GGGa; the controls required under this rule (40 CFR part 60, subpart

Ja) do not address the emissions from such equipment. Rather, this rule addresses emissions from the delayed coking unit's process vent.

Although we included process piping and associated equipment in the definition of "delayed coking unit" because it is necessary to operate the delayed coking unit, the inclusion of this equipment within the definition results in very minor changes, such as adding a few valves and connectors for a new sample point or pressure gauge, to be considered a "modification" of the delayed coking unit. This is because, under the definition above, these additional valves would increase emissions from the delayed coking unit even though the increase would not occur at emissions points regulated under this rule. See 40 CFR 60.14. This was an inadvertent result as the EPA did not intend for such small changes to process piping and associated equipment (such as pumps, valves and connectors, which, as noted above, are regulated elsewhere), to constitute a modification of the delayed coking unit under 40 CFR part 60, subpart Ja. As a result, this modification would require immediate compliance with the coke drum vent control requirements in 40 CFR 60.103a(i). Thus, we are removing this phrase from the definition.

This direct final rule also removes a redundant definition of "delayed coking unit" from 40 CFR 60.101a. When 40 CFR part 60, subpart Ja, was amended on September 12, 2012 (77 FR 56422), we added new definitions that preceded the old definition of "delayed coking unit" alphabetically, and we amended the then-existing definition of



"delayed coking unit." However, the old definition of "delayed coking unit" was not removed from the CFR when these other changes were made. Therefore, this direct final rule removes the old definition of "delayed coking unit," as it is no longer accurate and may be confusing to stakeholders.

Comments on this direct final rule are to be limited to issues directly associated with the amended definition of "delayed coking unit."

## **V. Statutory and Executive Order Reviews**

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

### B. Paperwork Reduction Act

This action does not impose any new information collection burden because it does not change the information collection requirements. However, OMB has previously approved the information collection requirements contained in the existing rule (40 CFR part 60, subpart Ja) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., and has assigned OMB control number 2060-0602. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impact of this final action on small entities, small entity is defined as: (1) a small business whose parent company has no more than 1,500 employees, that is primarily engaged in refining crude petroleum into refined petroleum as defined by NAICS code 32411 (as defined by Small Business Administration size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is

to identify and address regulatory alternatives "which minimize any significant economic impact of the rule on small entities." 5 USC 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This rule will not impose any requirements on small entities, and no small entities are expected to incur annualized costs as a result of the amendments. The amendments may reduce burden for small entities with delayed coking units. We have determined that the amendments will not result in any "significant" adverse economic impact for small entities. This amendment does not create any new requirements or burdens, and no costs are associated with this amendment. We have, therefore, concluded that this final rule will relieve regulatory burden for all affected small entities.

#### D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of \$100 million or more for state, local and tribal governments, in the aggregate, or the private sector in any one year. The costs of the final amendments would not increase costs associated with the final rule. Thus, this rule is not subject to the requirements of sections 202 or 205 of the UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The final

amendments contain no requirements that apply to such governments and impose no obligations upon them.

#### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action does not modify existing responsibilities or create new responsibilities among EPA Regional offices, states or local enforcement agencies. Thus, Executive Order 13132 does not apply to this action.

#### F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The final amendments impose no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action.

#### G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of

the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance.

#### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

#### I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This direct final rule does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

#### J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its

main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The final amendments are either clarifications or compliance alternatives which will neither increase or decrease environmental protection.

#### K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing these final rules and other required information to the United States Senate, the United States House of Representatives and the Comptroller General of the United States prior to publication of the final rules in the Federal Register. A major rule cannot take effect

until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This direct final rule will be effective on [INSERT DATE 90 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure,  
Air pollution control, Intergovernmental relations, Reporting and  
recordkeeping requirements.

Dated: December 4, 2013

Gina McCarthy,  
Administrator



For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 60-- [AMENDED]**

1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401, et seq.

**Subpart Ja-- [AMENDED]**

2. Section 60.101a is amended by:

a. Removing the first definition of "delayed coking unit" that occurs out of alphabetical order between the terms "contact material" and "corrective action" and

b. Revising the second definition of "delayed coking unit."

The revisions read as follows:

**§60.101a Definitions.**

\* \* \* \* \*

Delayed coking unit means a refinery process unit in which high molecular weight petroleum derivatives are thermally cracked and petroleum coke is produced in a series of closed, batch system reactors. A delayed coking unit includes, but is not limited to, all of the coke drums associated with a single fractionator; the fractionator, including the bottoms receiver and the overhead condenser; the coke drum cutting water and quench system, including the jet pump and coker quench water tank; and the coke drum blowdown recovery compressor system.

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